

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

KENNETH WAYNE GILMORE

PLAINTIFF

V.

CASE NO. 3:12CV00133 JMM/BD

JACK McCAIN, *et al.*

DEFENDANTS

ORDER

Mr. Gilmore filed his *pro se* Complaint under 42 U.S.C. § 1983 and is proceeding *in forma pauperis*. Because his original Complaint was deficient, Mr. Gilmore was instructed to file an amended complaint. He has now complied with the Court's order.

In his Amended Complaint, Mr. Gilmore states that he only intends to sue the Craighead County Detention Center ("Detention Center") in its official capacity. He claims that the Detention Center has a policy of failing to provide medical treatment to inmates.

Because the Detention Center is not considered a person for purposes of § 1983 liability, Mr. Gilmore cannot proceed on his claims against the Detention Center. *La Garza v. Kandiyohi County Jail*, 18 Fed. Appx. 436 (8th Cir. 2001) (unpub. table op.) (affirming dismissal of county jail on grounds that a jail is not an entity subject to suit under § 1983). Those claims will be addressed in a separate recommendation.

The Court, however, will allow Mr. Gilmore to proceed on his claims against the named Defendants in their official capacities. A suit against a county official in his

official capacity is the equivalent of a suit against the county, in this case Craighead County. *Parrish v. Ball*, 594 F.3d 993, 997 (8th Cir. 2010).

Accordingly, service is now proper for Defendants McCain, Smith, and Sparks. The United States Marshal is directed to serve the summonses, along with copies of the Complaint and Amended Complaint, with attachments (docket entries #2 and #4), on these Defendants through the Craighead County Sheriff's Office, 901 Willett Road, Jonesboro, AR 72401, without prepayment of fees or security.

The Federal Rules of Civil Procedure allow 120 days in which to serve defendants. FED. R. CIV. P. 4(m). If Mr. Gilmore wishes to proceed against John Doe defendants, he must identify and serve those Defendants on or before October 9, 2012.

IT IS SO ORDERED this 18th day of June, 2012.



UNITED STATES MAGISTRATE JUDGE